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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,135	12/21/2001	John P. Ruckart	BS01-314	5494
39072	7590	04/11/2007		
MYERS BIGEL SIBLEY & SAJOVEC, P.A.			EXAMINER	
P.O. BOX 37428			ROSE, KERRI M	
RALEIGH, NC 27627				
			ART UNIT	PAPER NUMBER
			2616	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/024,135	<b>Applicant(s)</b> RUCKART ET AL.	
	<b>Examiner</b> Kerri M. Rose	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-35, 38-40, 42-44, 46, 49-51, 54, 55, 57, 58, 61, 62, 73 and 74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-40, 42-44, 46, 49-51, 54, 55, 57, 73 and 74 is/are allowed.
- 6) ☒ Claim(s) 32-35, 58, 61 and 62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 8, filed 1/31/2007, with respect to the rejection(s) of claim(s) 32-35, 41, 44, 47, 52, 55, 58, 61-65, 67, and 68 under 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Emerson, III.
2. Applicant's arguments, see page 8, filed 1/31/2007, with respect to the 112 rejection of claims 32, 42, 47, and 73 have been fully considered and are persuasive. The rejection of the claims has been withdrawn.
3. Applicant's arguments filed 1/31/2007 with respect to the 112 rejection of claim 62 have been fully considered but they are not persuasive. No amendment has been made to claim 62 to add the missing elements.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 62 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 62 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: No structural relationships are disclosed.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 58, 61, and 62 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (US 7,092,380).

6. In regards to claim 58, Chen discloses a method for selectively routing calls received on a standard circuit switched telephone network to a VoIP platform, (fig. 12) comprising: receiving a plurality of calls at a device on the network (fig. 12.405. A call must be received before a decision can be made.); identifying a first of the calls as a call to be routed to the VoIP platform (fig. 12.405); routing the identified first of the calls to the VoIP platform (fig. 12.420-445); converting the first of the calls to an internet protocol (fig. 12.410); routing the converted first of the calls to a packetized communication network coupled to the VoIP platform (fig. 12.410-445); identifying a second of the calls as a call to be routed to the standard circuit switched telephone network; and routing the identified second of the calls to a standard circuit switched telephone network without converting the second of the calls to the internet protocol (fig. 12.415); wherein identifying a first of the calls and identifying a second of the calls are carried out at CO of the standardized circuit switched network (fig. 2D.20).

7. In regards to claim 61, Chen discloses a computer program product for routing telephone calls, the computer program product comprising computer program code to be executed by a

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computer that is embodied in a computer readable medium, the computer program code comprising program code configured to carry out the method of claims 58 or 63 (figure 7 discloses a DSP and memory unit. DSP operates according to a computer program).

8. In regards to claim 62, figure 2D discloses a system to carry out the method of figure 12.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (US 7,092,380) in view of Emerson, III (US 6,704,305).

11. In regards to claim 32 Chen discloses a telecommunications system for routing telephone calls comprising: a trigger configured to identify an initiated telephone call (col. 11 lines 53-60 and fig. 12 step 405); and a router configured to route the initiated telephone call over a packetized protocol network when the initiated telephone call is identified for packetized routing and to route the initiated telephone call over a standard telephone network without conversion to a packetized protocol when the initiated telephone call is not identified for packetized routing (col. 11 lines 60-63).

Chen does not disclose wherein the router comprises a customer premises telephone device.

Emerson discloses several different telephone devices that may be used in figure 2.

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It would have been obvious to one of ordinary skill in the art to use the telephone devices taught by Emerson in the telecommunication system taught by Chen because doing so allows the user to establish voice, data, audio, and video communications over the Internet simply by dialing the phone number, as taught by Emerson in column 5 line 53 to column 6 line 7.

12. In regards to claim 33, Chen discloses the system of claim 32, wherein the router is further configured to convert the initiated telephone call to the packetized protocol when the initiated telephone call is identified for packetized routing. Column 11 line 46 discloses that the Internet is a packet switched network and therefore the calls routed over it must be converted to packets.

13. In regards to claim 34, Chen discloses the system of claim 32, wherein the packetized routing comprises VoIP (fig. 12).

14. In regards to claim 35, Chen discloses the system of claim 32, wherein the standard telephone network comprises a circuit switched network (PSTN, fig. 2D element 14).

#### ***Allowable Subject Matter***

15. Claims 73, 38-40, 42-44, 46, 74, 49-51, 54, 55, and 57 are allowed.

#### ***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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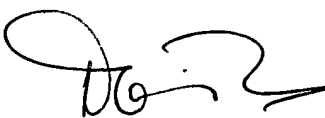
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kerri M. Rose whose telephone number is (571) 272-0542. The examiner can normally be reached on Monday through Thursday, 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris H. To can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

kmr



**DORIS H. TO**  
**SUPERVISORY PATENT EXAMINER**  
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